IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.382 OF 2007

Vasudev Sitaram Rane & Ors. ..Appellants

Versus

Chandrakant Tukaram Gogale & Ors. ..Respondents

Mr.G.S.Godbole @ Ms.Manjiri Parasnis for appellants.

Mr.Ravi Kadam, Vishwajit Sawant, Subhash Jadhav, Akshay Kishore i/by ALMT Legal for respondent nos.3 to 7, 13 & 14.

Coram : D.B.BHOSALE,J

DATE : 26.09.2007.

PC

1. This Appeal from Order is directed against an order dated 2.3.2007 by which the application instituted by the original plaintiffs appellants at Exh.63 seeking temporary injunction against the defendants from carrying out any development on the suit property and from creating third party rights has been rejected. This Court while issuing notices to the respondents on 4.3.2007 had passed an interim order to the effect that the respondents would not create any third party interest in respect of the suit property. This Court is informed that a development of the suit property has already begun. The suit was filed in 1989 and until filing of the application at Exh.63 on 19.1.2007 no interim relief was sought by the plaintiffs.

2. Mr.Kadam learned Senior Counsel appearing on behalf

of the respondents on instructions states that the respondents may be allowed to carry on construction in the suit property and if they are allowed to sale the tenements in the building, they shall keep informed in writing to the purchasers about the pendency of the suit and would also inform them that the sale transaction would be subject to the result of the suit. He further submits that the respondents shall not claim any equities. Mr.Godbole learned Counsel for the appellants submits that the submissions made by Mr.Kadam may be recorded and made part of the order of this Court.

3. Considering the submissions advanced by the learned Counsel for the parties and taking overall view of the matter and the nature of relief sought, I am satisfied that the following order will meet the end of justice

ORDER

(A) The respondents are allowed to develop the property. The development and creation of third party rights would be subject to outcome of the suit ;

(B) The respondents are allowed to sale the tenements and while doing so, shall keep all the purchasers informed in writing about the pendency of the suit and that the sale transaction would be subject to outcome of the suit;

(C) The trial Court shall endeavour to dispose of the suit bearing Special Civil Suit No.1233 of 1989 as expeditiously as possible and in any event before 31st January 2008 ;

(D) Parties are directed to co-operate for the disposal of the suit within the time framed ;

(E) The interim relief granted by order dated 4.5.2007 stands vacated. Appeal is disposed of.

(D.B.BHOSALE,J)